

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

2.06 CV 0406 DES (VDC)	
) 3:06-CV-0496-BES (VPC)	
) REPORT AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE	
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This Report and Recommendation is made to the Honorable Brian E. Sandoval, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B). For the reason set forth below, it is recommended that plaintiff's complaint be dismissed without prejudice.

February 15, 2008

I. BACKGROUND, DISCUSSION & CONCLUSION

On April 5, 2007, the court granted plaintiff's request to proceed *in forma pauperis* (#5). After a review of plaintiff's complaint, the court was unable to determine whether plaintiff stated a viable claim for relief. *Id.* Plaintiff was granted thirty (30) days within which to file an amended complaint in compliance with the order. *Id.* Plaintiff was cautioned that his failure to file an amended complaint within the time allotted may result in dismissal of this action. *Id.*

Plaintiff failed to file an amended complaint as ordered and has not requested additional time in which to do so. Therefore, this court recommends that this action be **DISMISSED** without prejudice.

The parties are advised:

Defendant.

1. Pursuant to 28 U.S.C § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of Practice, the parties may file specific written objections to this report and recommendation within ten days of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the District Court.

1	2. This report and recommendation is not an appealable order and any notice of appeal
2	pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's judgment.
3	II. RECOMMENDATION
4	IT IS THEREFORE RECOMMENDED that the district court enter an order
5	DISMISSING this action without prejudice.
6	DATED: February 15, 2008.
7	DATED: February 15, 2008. Value P. Jooke UNITED STATES MAGISTRATE HIDGE
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